



**Jerry N. Johnson, General Manager**

**The District of Columbia Water and Sewer Authority**

**Before the**

**House of Representatives Committee on Government Reform**

**March 11, 2005**

Good morning, Mr. Chairman, Congresswoman Norton and other members of the Committee. I am Jerry N. Johnson, General Manager of the District of Columbia Water and Sewer Authority, and I am pleased to represent the Authority before the Committee this morning.

As you may know, the District of Columbia Water and Sewer Authority has undertaken an intensive effort to improve how we address our obligations under the Safe Drinking Water Act and the Lead and Copper Rule.

Experience has taught us that fulfilling our obligations under the law by ensuring complete compliance with the provisions of the Lead and Copper Rule is critically important, and we are doing so. Fulfilling this obligation, however, is not sufficient.

And, despite our continuing efforts, we continue to exceed the lead action level under the LCR.

WASA is doing more to address not only the administrative agreements we have reached with the Environmental Protection Agency but also — and as important—to address the public's concerns and expectations.

Last June, WASA issued a "Community Water Pledge" - a promise to continuously improve our services and product, and a renewed commitment to keep our stakeholders better informed. We released a progress report just a few weeks ago, which has been provided to the Committee.

Some evidence that this seed we have planted is bearing fruit is the response to our effort to encourage private participation in the lead services replacement program --

Late last year, we implemented an outreach program to encourage private side replacements, and as a result the number of residents who are working with WASA to replace the service line in private space has increased from two (2) percent in FY 2003 to approximately 20 percent so far this year.

Mr. Chairman, I appreciate this opportunity to continue this discussion, and to talk about what it is we are learning as we respond to your questions. Specifically the Committee notes three items of interest:

- § The Administrative Orders agreed to by WASA and the EPA
- § The January 5, 2005 Office of the District of Columbia Inspector General Audit of Elevated Levels of Lead in the District's Drinking Water, and

§ The July 16, 2004 Summary of Investigation Reported to the Board of Directors of the District of Columbia Water and Sewer Authority prepared by Covington and Burling

The WASA Board of Directors

WASA has learned from the reviews and suggestions of federal and local policymakers, regulators, health officials and other experts. Residents participated in this process as well – we received tens of thousands of communications over the last year from the public!

However, it is the Board of Directors that continues to lead our effort. First, the Board commissioned an independent review of WASA's compliance with the LCR. The Board has also diligently held management to account for providing a full and detailed response to the Covington and Burling ("Holder") Report recommendations.

It is important to note that the Holder Report was the first such independent review to be completed. Its findings and recommendations have been, for the most part, reflected in the recommendations offered by those that followed, including the Inspector General and EPA through its Administrative Order.

As important, our Board reflects the interests of the community we serve. Board members have traditionally participated in some of the community meetings that take place. In response to public concerns and fulfilling their charge as WASA's governing body, the Board took specific policy action last year that resulted in, for example:

- 1) Establishing a flat rate (\$100/foot and \$500/entry) for private line replacement
- 2) Establishing an extended payment plan for private line replacement,
- 3) Encouraging management to work with Wachovia Bank to establish low-interest rate equity loans for private service line replacement
- 4) Establishing a grant program through the District for line replacement
- 5) Establishing a goal to eliminate all lead service lines in public space by 2010.

This last goal will result in a projected \$300-370,000,000 investment. It is unprecedented in size and scope, and goes well beyond the letter and perhaps even the spirit of the LCR.

Lead Services Program Update

I understand the Committee's interest in the specific steps taken by WASA (or WASA in conjunction with other agencies) over the past year, and in many respects these activities are mirrored in the recommendations contained in the Covington and Burling, OIG recommendations, and the Administrative Order.

WASA is fully addressing the requirements of the law and we also embrace the need to take extra steps that go well beyond the requirements of the law to inform and reassure the public. Examples include but are not limited to:

- Washington Aqueduct implementation of a new optimal corrosion control treatment plan (orthophosphate)
- Evaluating, restructuring and fully staffing the WASA Water Quality Program
- Creating the position of Environmental Compliance Officer in the Office of the general Counsel to coordinate and monitor compliance
- Creating a senior management position to manage the lead program
- WASA's Lead Services Hotline responses to 75,966 customer calls/e-mails - A snapshot of the Hotline traffic indicates that between February 5 and February 19, 2005, we received 608 calls – 38 were for lead test kits.
- WASA distribution of 38,499 water sample test kits (20,668 test kits have been returned by customers for analysis since January)
- WASA distribution of 34,786 water filters and replacement cartridges
- WASA's work with the Department of Health to fund over 7,000 lead blood level tests, many environmental assessments conducted at target households, and a real-time data system for collecting blood lead level information from private health care providers
- Exerting very strong efforts to coordinate service line replacement construction with the District Department of Transportation and other utilities
- Establishing several innovative automated systems for monitoring and tracking a variety of functions and activities.

#### Public Outreach Update

Our public communications efforts have also mushroomed. You have examples of some of the work included with the testimony. Since February of last year, WASA has hosted or participated in 45 community meetings to help address public concern about the lead issue. We also:

- continue to schedule these meetings, focusing on areas of the city where we expect to undertake physical service line replacements
- so far this year, provided about 2,500 colorful, attention-grabbing brochures to residents who are part of the lead service replacement program so far this
- present periodic media briefings
- published many customer newsletters (125,000 recipients) on the topic
- distributed multiple customer and "all address" mailings to update them on the lead issue, including health information
- engage a team of experts from the George Washington University School of Occupational and Environmental Health to advise us on health matters, and to help improve communications and community outreach

- have begun to participate in the Lead Task Force, a coalition of community groups that includes health professionals, community and environmental advocates who have provided advice and more effective community outreach
- hosted a national symposium to discuss the LCR, risk communication and begin the process of developing a case study of our experience
- added additional staff to the public affairs department
- engaged consulting expertise to advise and support community outreach generally and to special populations (Edelman, Equals 3, Maya, Silverberg, as well as GWU)
- updated our website to include a video on the replacement program
- provide password protected customer access to lead sample test results and pipe material information through the WASA web page.

#### Committee's Interest in Responses to Certain Audit Recommendations

I would like to note that we have cooperated with a number of reviews of the Authority's management of this issue. Although not all have concluded, several have been completed. The Authority concurs with the great majority of the recommendations. In most cases these initiatives were planned or implemented before we received these suggestions.

Although WASA *does not necessarily agree with all of the findings* that have been produced from these reviews, our position on compliance with the LCR has frequently been set forth in public statements, sworn hearing testimony and in filings submitted in ongoing legal proceedings.

Specifically, the Authority has participated in a number of audits and reviews, including:

- § An Environmental Protection Agency LCR compliance audit going back several years - complete.
- § A Covington and Burling investigation, conducted at the request of the Board of Directors - complete.
- § A federal Government Accountability Office review - underway.
- § Two United States House Committee on Government Reform hearings.
- § A United States House Energy and Commerce Subcommittee on Environmental and Hazardous Materials Subcommittee hearing.
- § A United States Senate Environment and Public Works, Fisheries, Wildlife and Water Subcommittee hearing.
- § About twelve District Council Public Works and the Environment hearings

- § A report by the Chair of the Council Committee on Public Works and the Environment, Carol Schwartz - complete.
- § An Interagency Task Force on Lead in Drinking Water (convened by Mayor Anthony Williams and the Council Committee on Public Works - complete.

#### Administrative Order and Supplemental Administrative Order

The Administrative and Supplemental Administrative Orders for Compliance on Consent (Docket No. SDWA-03-2004-0259DS and SDWA-03-2005-0025DS) note several findings and remedies.

These findings involved: the required follow-up monitoring of partially replaced lead service lines; required public service announcements; use of required language in written materials; acknowledgement of and appropriate steps following an exceedance of the lead action level in 2000–2001 monitoring period, and the finding by Covington and Burling that WASA sampling instructions for a certain number of residents in 2003 was not consistent with the LCR, and other provisions.

WASA, as I believe the EPA has already testified, is fully in compliance with the provisions of the Administrative Order agreements.

The agreements include: a commitment by WASA to undertake additional lead service replacements through 2007 than are annually required under the LCR in order to make-up for replacements that should have been completed in 2003, an additional 1,615 service lines that should have been addressed in 2001; a prioritization plan for 1,000 specific addresses for replacement by September 2006; implement additional measures to obtain samples following a partial replacement; to improve reporting to the EPA under the LCR we are also updating materials evaluation, and the lead service line inventory; delivery of water filters to designated addresses, and other provisions

I will be happy to address any specific questions from the Committee on those matters.

#### Improving Appropriate Communications with EPA

In general, WASA's agreements with the EPA codify activities that the Authority already had planned or were underway. As important, these agreements encourage, and in some respects require more attention to and a healthy evolution in our relationship with our regulator.

Remember that WASA is responsible for: 1) delivering drinking water to 570,000 residents in the District; 2) wastewater treatment services for well over 2.1 million residences across the region; 3) 1,300 miles of water lines; 4) 1,800 miles of sewer lines, and 4) the up to 370 mgd of wastewater treatment capacity provided by the operation of the world's largest advanced wastewater treatment plant.

One way or another most of our employees participate in assuring that we comply with federal Safe Drinking Water Act and Clean Water Act standards and regulations. Our mission is very broad and the depth of our relationship with the federal EPA which regulates wastewater treatment, air pollution and drinking water is necessarily deep.

Historically, communications between the two agencies was frequent, often productive, but too often casual – I believe that informal undocumented communications exacerbated some of the problems this community experienced. Communications between the two agencies on compliance issues and other matters is formal and carefully documented, today. I believe the public's interests are much better served.

### OIG

As you know, the District of Columbia Office of the Inspector General report issued on January 5, 2005 includes WASA's specific responses to each of the recommendations made by the Inspector General.

The District of Columbia Water and Sewer Authority Response to the OIG Special Review commented on specific OIG recommendations. Specifically, WASA agreed with 11 of 12 OIG recommendations.

WASA's response also offered clarifications on selected issues of fact given the complexity or technical nature of the subject matter (Lead Service Line Replacement Efforts in 2003; Customer Information System; Corrosion Control); Availability of Federal Funds; Written Material Provided to Customers; Potential Causes and Effects of Lead Exposure).

### Covington & Burling (Holder) Report to the Board of Directors

On March 4, 2004, Covington and Burling began, at the request of the Board of Directors an investigation of lead monitoring activities beginning with the 2000-2001 monitoring period. The investigation was to provide an independent, thorough review of the facts, evaluate the Authority's compliance with the applicable regulations and the appropriateness of the Authority's handling of lead monitoring.

Covington reviewed tens of thousands of documents from the Authority, the United States Environmental Protection Agency ("EPA"), the District of

Columbia's Office of the Inspector General and Department of Health (DOH"), as well as the Washington Aqueduct Division of the United States Army Corps of Engineers. Covington also conducted more than 20 interviews, including Authority employees and Board members.

The "Summary of Investigation" concludes that a confluence of factors contributed to the Authority's difficulties, including but not limited to weaknesses in the Lead and Copper Rule ("LCR") public awareness requirements and muted and inadequate responses from the EPA and DOH despite having been informed of the LCR exceedance by the Authority. Covington's investigation led to preliminary conclusions, given limited time and access, "...regarding past shortcomings in the Authority's lead monitoring activities and its compliance with EPA regulations." The Report concludes that two central shortcomings at the Authority played an important role:

- The Authority did not have sufficient controls in place to govern the EPA compliance process;
- The Authority failed to communicate effectively about lead-related issues both internally and externally.

The Board received the Report on July 16, 2004, and Mr. Holder provided a summary briefing of the Report at the September 2, 2004, regular meeting of the Board. The Report included 20 recommendations. As part of its review of the Report findings and recommendations the Board assigned to Authority management the task of providing a management response to the Report's specific recommendations. The Management Response concurs with 18 of the 20 recommendations, and has implemented or is in the process of implementing them. The Management response has been provided to the Committee.

WASA through its Board of Directors, management and employees maintain a renewed commitment to providing the very highest quality of services and product to our customers, and we will be constantly seeking opportunities to improve.

Thank you for the opportunity to address the Committee on this important matter. I would be pleased to respond to any questions.